

Marston Jr., David W.

From: Marston Jr., David W.
Sent: Thursday, April 04, 2019 11:05 AM
To: Richard Garbarini
Subject: RE: Burchett v. Maersk
Attachments: Email Dated 2-6-19.pdf

Mr. Garbarini –

Your settlement demand is rejected. As you know, APMM already paid your client to settle all claims relating to the Estelle Maersk photographs.

I note that in your motion for reconsideration, you represented to Judge Rakoff that “Maersk and plaintiff agreed to arbitrate the claims on February 6, 2019 -- prior to the hearing date.” ECF No. 20 at 1. That representation is false. Attached is a copy of our email exchange on February 6, 2019. Contrary to your representation to Judge Rakoff, APMM did not agree to arbitrate any claims. Rather, we told you that your claims have no merit because they were released as part of the Settlement Agreement. APMM reserves all rights with respect to your misrepresentation.

Finally, APMM will consent to the withdraw of the action you filed before Judge Batts only if you (or your client) pay APMM all of the attorneys’ fees and costs it incurred preparing the Motion to Dismiss, which APMM was forced to file on March 15, 2019 as a result of your improper actions.

David W. Marston Jr.

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From: Richard Garbarini <rgarbarini@garbarinilaw.com>
Sent: Thursday, April 04, 2019 7:49 AM
To: Marston Jr., David W. <david.marston@morganlewis.com>
Subject: Burchett v. Maersk

[EXTERNAL EMAIL]

Mr. Marston:

Now that we stand on the precipice of an arbitration and considering the uncertainty of a motion to dismiss, perhaps this is a good time to resolve this matter. Plaintiff offers to resolve all issues including Maersk's failure to remove the images, and the infringement on the image which will be imminently registered, i.e., a settlement which will cover past and future copyrighted images. Plaintiff offers to resolve all issues with Maersk for \$15,000.

Also, I wrote to Judge Batts, but she has yet to respond. Will you consent to a voluntary withdrawal until plaintiff receives the registration?

Richard Garbarini

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